IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 7394 of 2001

Between:

1.M.A.Khuddus, S/o M.Abdul Gafoor,
R/o 16-162, Kadakpura, Kurnool.
2.M. Mahaboob Basha, S/o M.Abdul Gafoor,
R/o 16-162, Kadakpura, Kurnool.

..... PETITIONERS

AND

1 Prasad, S.I. of Police Special Branch,
C/o S.P.Baglow Premises, Kurnool.
2 The District Collector,
Kurnool District.
3 G.Sanjeevaiah, Commission Agent,
C/o Shop No.40B, Market Yard,
Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ order or direction, directing the respondent 1 not to interfere with regard to peaceful living of the petitioners on instructions of the 3rd respondent with regard to a civil dispute without registering any crime by declaring the action of the respondent No.1 in interfering with the civil dispute at the instance of 3rd respondent and harassing the petitioner as illegal, arbitrary and violation of Articles 21 of the constitution of India

Counsel for the Petitioners: MR.M.SUBBA REDDY

Counsel for the Respondent Nos.1 and 2.: GP FOR HOME

Counsel for the Respondent No.3: --

The Court made the following:

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 7394 of 2001

ORDER:

The petitioners filed the present writ petition seeking a directions to respondents 1 and 2 not to interfere with civil dispute between the petitioner and the third respondent. It is the case of the petitioner that there is a dispute between the petitioners and the third respondent with regard to the payment of Rs.4,18,445/- and that on 05.03.2001 first respondent summoned the petitioners to police station and abused them. Therefore, the present writ petition is filed.

The first respondent filed counter affidavit stating that when the third respondent gave a complaint on 08.02.2001 complaining about the amounts due to the petitioners, enquiry was made and the matter was brought as it is a civil dispute. It is also stated that the police are not interfering with civil dispute. It is now well settled that in a dispute of civil nature, Police have no power either to register the crime or to investigate the matter. This Court in **S.Masthan Saheb v P.S.R. Anjaneyulu**, after referring to the entire case law on the subject held as under:

> The various provisions to which a brief reference is made would show that the power of the police to collect intelligence regarding any design to commit cognizable offences and prevent commission of cognizable offences is considered to be the inherent power of the police organization. Whether or not there is a special enactment, the police are expected to perform its functions; namely, maintenance of peace and public order and prevention of cognizable offences. When all these statutes dealing with police in Andhra Pradesh deal with duty of the police relating to cognizable offences, a Police Officer would not be justified in saying that he/she is looking into a complaint made by a person which has, *ex facie*, trappings of the civil dispute. Indeed, under sub-section (1) of Section 154 of Cr.P.C, it shall be within the power and duty of the Police Officer to register only a cognizable offence. Though under Section 155 of Cr.P.C. a Police Officer can make an entry in the appropriate register about the information as to non-cognizable offence, such Police Officer shall not investigate a non-cognizable offence without the order of the Magistrate. As a necessary corollary, it must be concluded that any effort on the part of the police "to look into' any complaint by any person which does not contain allegations of

> commission of cognizable offences would not only violate the various provisions of the Andhra Act, as in this case, but also would violate Section 155 (2) of the Cr.P.C. Any such action would be *ex facie* illegal, whatever be the *ipsi dixit* of the police. There is no presumption in law that every rift in human relations would lead to a civil dispute and civil dispute would likely to result in clashes, resulting in offences against human body. Any such effort on the part of the police to look into the complaints regarding civil disputes is not even the part of the Code of Conduct of the Police, which was communicated by the Government of India in 1987…

Following the same, the writ petition is disposed of, observing that unless and until the petitioner is involved in a cognizable offence, the police shall not interfere with the liberty of the petitioner.

The writ petition is, accordingly, disposed of.

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(V.V.S.RAO,J)

22.06.2005.

pln

To

1 The S.I. of Police, Special Branch,
C/o S.P.Bagalow Premises, Kurnool.
2 The District Collector, Kurnool District.

3 Two CCs to Government Pleader for Home, High Court Buildings,

Hyderabad (OUT).

4 2CD copies.